

## **REMARKS**

Favorable reconsideration is respectfully requested in view of the foregoing amendments and the following remarks.

### **I. CLAIM STATUS & AMENDMENTS**

Claims 1-18 were pending in this application when last examined.

Claims 1-7 and 9-17 were examined on the merits and stand rejected.

Claims 8 and 18 were withdrawn as non-elected subject matter.

Claims 3, 8 and 18 are canceled without prejudice or disclaimer thereto.

Applicants reserve the right to file a continuation or divisional application on any canceled subject matter.

Claims 1 and 11 are amended to delete non-elected subject matter.

Claims 1, 2, 4-7, 9-13 and 17 are amended to delete "or ester", to expedite prosecution.

Claim 15 is amended to recite "Cdk4" instead of "Cdk." Support for this amendment can be found, for example, on pages 70-73 of the specification as filed.

Claim 16 is amended to limit the cancers to be treated to those controlled by Cdk4. Support for this amendment can be found on page 78, lines 8-19, and on pages 70-73 of the specification as filed.

The claims are further amended to clarify the claimed invention.

No new matter has been added.

### **II. INFORMATION DISCLOSURE STATEMENT**

In item 2 on page 1 of the Office Action, it is indicated that the IDS filed April 26, 2005 will not be considered because no copies of the patent documents were submitted. Applicants note that at the time of the filing of the IDS, the International Bureau was forwarding copies of cited references to the USPTO. Thus, copies of these references should have been available. Nevertheless, Applicants hereby submit the three cited references and a copy of the April 26, 2005 IDS, for the convenience of the Examiner.

Applicants note that the relevancies of the non-English references are indicated in the International Search Report submitted with the IDS of April 26, 2005. Such an indication fulfills the concise explanation of non-English references submitted with an IDS requirement. Please see MPEP 609.04(a)III, second paragraph.

### **III. ENABLEMENT REJECTIONS**

In item 4 of the Office Action, claim 16 was rejected under 35 U.S.C. § 112, first paragraph, on the basis that the specification is not enabled for all cancers, but is enabled for treatment of the following cancers that are controlled by cyclin-dependent kinase 4: glioma (blastoma), breast, lung, gastrointestinal, endometrial, leukemia, head and neck, liver, ovary or testicular, and mesothelioma, and the following cancers associated with CDK6: glioma (blastoma), lymphoma, and other sarcomas.

To expedite prosecution of this application, claim 16 is amended such that the cancers to be treated are limited to those controlled by Cdk4. Such scope was indicated as enabled by the Examiner on page 4, last paragraph, of the previous Office Action. Further, claim 15 is amended to recite “Cdk4” instead of “Cdk” to further clarify the claimed subject matter. Thus, Applicants submit that this rejection, as applied to the amended claims, is untenable and should be withdrawn.

Applicants further note that the specification discloses that in the case where variable R is an electron-donating or electron-withdrawing group, a variety of example compounds exhibit Cdk4 inhibitory activity. Furthermore, the specification discloses that compounds 11, 51 and 134 show Cdk6 inhibitory activity. Thus, a person skilled in the art can practice the claimed invention for other Cdks inhibitory activity, in addition to Cdk4 and Cdk6 inhibitory activity, without undue experimentation.

On page 5, claims 1-5 were rejected under 35 U.S.C. § 112, first paragraph, on the basis that the specification is not enabled for all compounds encompassed within the elected group, but is enabled for compounds 1-146 that fall within the elected group.

The Office Action states on page 5, lines 14-15, that “applicants do not show the preparation of compounds where variables B<sub>1</sub> through B<sub>5</sub> are other combinations and Y is S”; and on page 5, line 19, that “Applicants have also not shown any example schemes

where Y equals S". However, in amended claim 1, Y is limited to O or NR', not S.

Applicants further note that in Example 74, Y is NH.

Further, the Office Action states on page 5, lines 17-19, that "The synthetic schemes involved are not shown how they can be adopted to make compounds where any one of B<sub>1</sub> through B<sub>5</sub> is oxygen, nor where each B is N." However, Example 28 is a compound where B<sub>3</sub> is O, and B<sub>1</sub>, B<sub>2</sub>, B<sub>4</sub> and B<sub>5</sub> are C. Thus, the synthetic schemes shown on page 54 of the specification are not limited to the manufacture of the compounds where variables B<sub>1</sub> through B<sub>5</sub> are C or N. Also the synthetic schemes (manufacturing method C) relates to the manufacture of the compounds where Y is NH (see page 56, lines 18-22, of the specification).

Therefore, Applicants submit that the specification enables one of ordinary skill in the art to make a variety of the claimed compounds, commensurate with the scope of the claims as amended, without undue experimentation. Therefore Applicants suggest that this rejection, as applied to the amended claims, is untenable and should be withdrawn.

#### **IV. INDEFINITENESS REJECTIONS**

On page 7, claim 16 was rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for the phrase "amount of one or more kinds of the quinoxalinone derivative according to claim 1 as an active ingredient".

Claims 14-16 have been amended to "a quinoxalinone derivative". Thus, this rejection is moot as applied to the amended claims.

In item 8, claims 1-7 and 9-17 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for the phrase "ester thereof".

Accordingly, these claims have been amended to remove the phrase "or ester". Thus, this rejection is also moot as applied to the amended claims.

#### **V. CLAIM OBJECTIONS**

On page 7, claims 1 and 11 were objected to because they contain non-elected subject material.

Accordingly, claims 1 and 11 have been amended to limit the subject material to the elected subject matter.

**CONCLUSION**

In view of the foregoing amendments and remarks, it is respectfully submitted that the present application is in condition for allowance and early notice to that effect is hereby requested.

If the Examiner has any comments or proposals for expediting prosecution, please contact the undersigned attorney at the telephone number below.

Respectfully submitted,

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